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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,824	07/30/2003	Nareak Douk	P1354	7296
28390 7590 12/20/2006 MEDTRONIC VASCULAR, INC. IP LEGAL DEPARTMENT 3576 UNOCAL PLACE SANTA ROSA, CA 95403			EXAMINER AHMED, AAMER S	
			ART UNIT	PAPER NUMBER
			3763	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/20/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/629,824

Applicant(s)

DOUK, NAREAK

Examiner

Aamer S. Ahmed

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/13/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 7-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, and 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis US Patent Number 5,514,093 et al in view of Bagaosian et al US Patent Number 6,152,909.

Ellis discloses a catheter comprising a long continuous aspiration shaft (12) having a fixed length and an aspiration lumen (see fig. 3) extending between a distal aspiration port (see fig. 3) disposed at a distal tip of the aspiration catheter and a proximal tube (82) having a first lumen extending therethrough, wherein the proximal tube (82) is slidably disposed over the aspiration shaft (12); and a distal tube (61) having a second lumen extending therethrough wherein the distal tube (61) is slidably positionable within the first lumen at least a proximal end of the distal tube (61) is unremovably disposed within the first lumen and the aspiration shaft is unremovable from the second lumen (see fig. 3).

Moreover, Ellis et al discloses a first distal stop (86) fixedly attached to the interior surface of the proximal tube (82) on a distal end thereof; a third proximal stop (64) fixedly attached to an interior surface of the distal tube (61) on a proximal end thereof (see fig. 3) and a

Art Unit: 3763

fourth proximal stop (48) fixedly attached to an exterior surface of the aspiration shaft in a distal region thereof.

Ellis fails to disclose that the catheter comprises a guidewire shaft having a guidewire lumen disposed adjacent to and distal of the aspiration shaft, a proximal aspiration port disposed at a proximal end of the aspiration catheter, the proximal aspiration port adapted to be joined to a source of negative pressure, and that the distal aspiration port is at an oblique angle.

Bagaosian et al discloses a similar device wherein the catheter comprises a guidewire shaft having a guidewire lumen disposed adjacent to and distal of the aspiration shaft (40, see fig. 5), a proximal aspiration port disposed at a proximal end of the aspiration catheter, the proximal aspiration port adapted to be joined to a source of negative pressure (34, see fig. 5), the distal aspiration port is at an oblique angle (see fig. 5).

It would have been obvious to one having ordinary skill at the time of invention by the applicant to modify the device of Ellis et al by adding the aspiration port, adjacent guidewire lumen and oblique angle distal aspiration port of the type taught by Bagaosian et al., in order to better seal the catheter, and enter the patient at an oblique angle (col. 3 line 45).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al in view of Berthiaume US Patent Number 5,846,259.

Ellis et al discloses the device as described above including but, fails to explicitly disclose a first and second proximal stop or a second distal stop.

Berthiaume discloses a similar device with a first proximal stop (43) attached to an interior surface of the proximal tube on a proximal end thereof; a second proximal stop (52) and a second distal stop (56).

It would have been obvious to one having ordinary skill in the art at the time of invention by the applicant to modify the device of Ellis et al., by adding the stops of the type disclosed by Berthiaume et al.; in order to better limit movement of the telescopic tubes.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, and 4-6 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aamer S. Ahmed whose telephone number is 571-272-5965. The examiner can normally be reached on Monday thru Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



A. Ahmed

